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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,771	10/30/2003	Richard S. Roark	1814.0001C	6891

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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

EXAMINER	
MCCALL, ERIC SCOTT	
ART UNIT	**PAPER NUMBER**
2855	

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/695,771	ROARK, RICHARD S.	
	Examiner	Art Unit	
	Eric S. McCall	2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 June 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23 and 25-48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18,20-23,25-43,47 and 48* is/are rejected.

7)☒ Claim(s) *19 and 44-46* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date July 07, 2005
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

MOUNTABLE SOUND PRESSURE LEVEL METER

FINAL OFFICE ACTION

In response to the Applicant's amendment dated June 06, 2005.

ABSTRACT

In view of the Applicant's amended abstract, the objection thereto as stated in the previous office action (Jan. 06, 2005) has been overcome.

SPECIFICATION

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. The Applicant's cooperation is requested in correcting any errors of which the Applicant may become aware of in the specification.

CLAIMS

35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-18, 20-23, 25-43, 47, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knowd (4,257,273) in view of Sokol (4,648,572).

With regards to independent claim 1, Knowd teaches an automotive sound pressure level (SPL) meter (Fig. 1) that is temporarily mountable in a motor vehicle, comprising:

a SPL meter (10) including a housing (12), a pressure sensor (36), a mode selector input device (24-34), and a display (22), wherein the SPL meter is configured to measure sound pressure levels within a motor vehicle (col. 1, lines 5-25; However, the use of the SPL meter to measure sound pressure levels within a vehicle, as claimed, is interpreted as merely an intended use of the SPL meter because a SPL meter as taught by the prior art will be able to operate in any environment to measure sound pressure levels including that of within a motor vehicle).

However, Knowd fails to teach a temporary mounting mechanism coupled to the housing of the SPL meter, wherein the temporary mounting mechanism affixes the SPL meter to a surface within the motor vehicle, such that the SPL meter is selectively removable from the motor vehicle.

Sokol does teach a temporary mounting mechanism coupled to the housing of a meter, wherein the temporary mounting mechanism affixes the meter to a surface within the motor vehicle, such that the meter is selectively removable from the motor vehicle.

As a result, it would have been obvious to one having ordinary skill in the art armed with said teachings to employ the temporary mounting mechanism coupled to the housing of the meter of the Sokol teaching to affix the SPL meter as taught by Knowd to a surface within the motor vehicle, such that the SPL meter is selectively removable from the motor vehicle.

The motivation being that since Knowd makes the comparison of the SPL meter to a vehicle mounted radar detector (col. 1, lines 5-25) and radar detectors or other devices are very well known to be removably mounted to a surface within a motor vehicle as taught by Sokol, the teaching combination suggests that the taught SPL meter may be the "like device" as taught by Sokol and thus be mounted using the support bracket therein.

With regards to claim 2, Knowd teaches a housing as claimed wherein the pressure sensor (36) is contained within the housing.

With regard to claims 3-6, 8, and 9, Knowd suggests the pressure sensor containing a diaphragm because the pressure sensor is a transducer but fails to teach the specifics of such a diaphragm.

Nonetheless, the use of a diaphragm having a material or dimensions as claimed would have been obvious to one having ordinary skill in the art armed with said teaching.

The motivation being that the materials and the dimensions as claimed are common materials/dimensions used in constructing a diaphragm for a pressure sensor of the size as taught.

With regards to claim 7, Knowd teaches the housing of the SPL meter including a single sound/pressure hole for receiving acoustic energy detectable by the pressure sensor (Fig. 1).

With regards to claim 10, Knowd shows the pressure sensor being a microphone (Fig. 1).

With regard to claims 11-13, Sokol suggests a bracket (26) pivotable relative to the housing (and thus bracket portion 22) as claimed (col. 2, lines 64-68).

With regards to claim 14, Sokol discloses a temporary mounting mechanism comprises a non-pivoting, clip-like bracket (20) coupled to the housing, wherein the clip-like bracket is suitable for temporarily mounting the meter on a sun visor within the motor vehicle as claimed because the Applicant has not defined within the claim the material from which the sun visor is

made and thus if the sunvisor is of a material (ie. plastic) to which the suction cups adhere, the bracket will be suitable for temporarily mounting the meter on a sun visor as claimed.

With regards to claim 15, Sokol teaches the loop and hook fastener (36) as claimed.

With regards to claim 16, the above teaching combination fails to teach the temporary mounting mechanism comprising a magnetic material coupled to the housing.

However, it would have been obvious to one having ordinary skill in the art to use a magnetic material in addition to or in place of the taught loop and hook fastener.

The motivation being that magnets are well known and common substitutes for loop and hook fasteners because they provide ample removable securement.

With regards to claim 17, Sokol clearly teaches the claimed subject matter thereof.

With regard to claims 18 and 32, the above teaching combination suggests the claimed subject matter thereof.

With regards to claim 20, Knowd suggests the claimed subject matter thereof (22).

With regard to claims 21-23, 25, and 26, Knowd suggests the claimed subject matter thereof (Fig. 1).

With regard to claims 27-29, Sokol suggests the claimed subject matter in the figures thereof.

With regard to claims 30 and 31, Knowd suggests a mode selector input device including a maximum mode selector that controls the display to indicate (and store, 60) a maximum measured decibel level (col. 1, lines 54-60).

With regards to independent claim 33, said claim is a method claim which closely parallels that of the independent apparatus claim 1. Thus, claim 33 is rejected for the same reasons as claim 1.

With regards to claim 34, see the above response to claim 12.

With regards to claim 35, see the above response to claim 14.

With regards to claim 36, due to the use of the alternative language, see the above response to claim 15.

With regard to claims 37 and 38, the above teaching combination clearly suggests the claimed subject matter thereof.

With regard to claims 39-43, 47, and 48, Knowd suggests the claimed subject matter thereof.

Allowable Subject Matter

Claims 19 and 44-46 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

RESPONSE TO ARGUMENTS

The Applicant's arguments have been considered but have not been found to be persuasive.

With respect to claim 1, the Applicant has argued that the prior art of Knowd provides no suggestion that the SPL meter is configured to measure sound pressure levels within a motor vehicle. The Examiner disagrees because the Examiner contends that the teaching of Knowd, in the hands of one having ordinary skill in the art, suggests that sound pressure levels can be and will be measured within a vehicle.

Knowd suggests the use of the taught SPL by law enforcement officials much like, and using the comparisons of, speed detection via vehicle mounted radar, and at the time of the

Applicant's invention, law enforcement radar detectors were well known to be mounted within a vehicle for the detection of an exterior vehicle's speed. Furthermore, since the radar detector is mounted within the vehicle, the measuring of a vehicle's speed will occur within the vehicle.

The fact that Knowd draws a comparison between the taught SPL meter and a well known radar detector would suggest to one having ordinary skill in the art that the SPL meter would be mounted within the vehicle much like a radar detector. Furthermore, since the SPL meter would be mounted within the vehicle, the measuring of sound pressure levels would actually occur within the vehicle.

In addition, if Knowd was to suggest that the SPL meter would not be mounted within the vehicle, but instead outside like the Applicant has argued, the question would arise why would Knowd compare the SPL meter to a device which is well known to be mounted within a vehicle.

Also, it is well known in the art that outside sound levels (ie. noise) are of interest to both the auto industry and law enforcement with respect to the interior of a vehicle for safety and comfort. Thus, the reasoning behind measuring noise within an interior of a vehicle from sources outside the vehicle's interior (ie. engine noise, emergency vehicle noise, road noise, etc.).

Furthermore, the Applicant's claim 1 is directed to a sound pressure level meter. The environment in which the meter is to be used is not part of the meter itself. The environment (ie. "within a motor vehicle") is merely an intended use of the apparatus as claimed and thus has not been given patentable weight. The teaching combination as applied suggests, at a minimum, the Applicant's sound pressure level meter as claimed. Thus, the prior art's sound pressure level meter will measure sound pressure levels in the same way as the Applicant's regardless of the environment in which it is placed.

Next, the Applicant argues the Examiner's combination of the Sokol teaching with Knowd teaching to achieve the mounting mechanism as claimed stating that no suggestion exists in the Sokol teaching to mount a SPL meter. The Examiner points out that if Sokol did explicitly teach the mounting of a SPL meter, claim 1 would have been rejected under 35 USC 102 over Sokol instead of 35 USC 103. However, as the Applicant has acknowledged, Sokol discloses a bracket for attaching a radar detector or like device, such as stereo components thereto.

The fact that Sokol teaches a temporary mounting mechanism for devices "like" radar detectors or stereo components would suggest to one having ordinary skill in the art that a SPL meter could also be temporarily mounted via the same mechanism because the SPL meter of Knowd, which is used to measure sound pressure levels within a vehicle much like a radar detector is mounted within a vehicle to receive radar waves and measure speed, is similar in size and shape to radar detectors and stereo components.

The Examiner also points out that sound pressure level meters are well know "stereo components" temporarily mounted within a vehicle to measure sound pressure during stereo competitions further suggesting that a SPL meter could mounted via the mechanism of Sokol.

Next, the Applicant argues that compact, potable SPL meters were either not available in the past or not configured for mounting within a motor vehicle. However, the Examiner argues that the applied teaching combination suggests otherwise.

The Examiner disagrees with the Applicant's argument that Knowd's SPL meter is not well-suited for mounting in a vehicle because a person seated in the vehicle would not be able to view the meter without significant modifications to the mount. Although the Examiner disagrees with this statement because a SPL meter could be simply attached to the mount in the same way as the device in the Knowd teaching, the Examiner points out that the Applicant's claim does not require a seated passenger to view the meter either.

Finally, with respect to the Applicant's arguments pertaining to claim 21, the SPL meter of Knowd suggests the claimed subject matter thereof. The top surface being the surface with connector 18. The bottom surface being the surface directly opposite and parallel to the top surface. The two opposing side surfaces being the side surfaces to the right and left of the display. The front face being the face with the display and controls. The rear face being the face which directly opposes the front face.

CONCLUSION

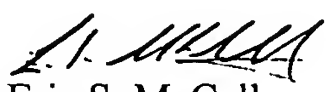
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric S. McCall
Primary Examiner
Art Unit 2855
Aug. 17, 2005